

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SILAS CALHOUN and
EMILY CALHOUN, Individually and as
Parents and Next Friends of ESTELLA
CALHOUN,
Plaintiffs

v.

UNITED STATES OF AMERICA and
ERIC C. DAUB, M.D. and
MARIANNE SUTTON, M.D.,
Defendants

CIVIL ACTION NO. 04-10480-RGS

PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR RECONSIDERATION

The plaintiffs oppose the defendants' motion for reconsideration and states that there is no just reason for requiring the plaintiffs to bear any costs associated with taking their depositions. As previously noted, the plaintiffs commenced this action while living in Massachusetts and moved to Hawaii because Silas Calhoun was transferred on orders of the United States Army. Silas Calhoun has served a 14-month tour of duty in Iraq, Emily Calhoun is not currently employed outside the home, and it would cause substantial economic hardship on the Calhouns to pay these costs. The costs are not extraordinary and are routinely born by parties taking out of state depositions.

Undersigned counsel for the plaintiffs has also investigated the deposition costs and disputes the defendants' assertion that the cost of taking video depositions would be approximately \$4,500 - \$6,000. According to Kinkos copy service, the charge for a 4 hour video conference deposition, including room costs in Massachusetts and Hawaii, phone line charges, and videographer fees is approximately \$1,890. There is no need to pay overtime to a court

reporter as the deposition could start during morning business hours in Hawaii, where the court reporter would be located. In any event, the party taking the deposition would bear the cost of the court reporter no matter where the deposition was taken. Finally, according to Dr. Sutton's answers to interrogatories, she is insured by the ProMutual Insurance Company.

Accordingly, the plaintiffs request that the court deny the defendants motion for reconsideration.

SILAS CALHOUN, ET AL.
By their attorneys,

/s/ Michael S. Appel /s/
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Dated: September 2, 2005

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